

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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EVARISTO NAVARRO RODRIGUEZ,

Petitioner,

v.

WARDEN, *et al.*,

Respondents.

Case No. 3:20-cv-00669-MMD-CLB

ORDER

Petitioner Evaristo Navarro Rodriguez, who is incarcerated at Nevada's Lovelock Correctional Center, initiated this action on December 2, 2020, when he submitted to the Court for filing a motion to take judicial notice (ECF No. 1-1 ("Motion")). Petitioner did not pay the filing fee for this action, and he did not submit an application to proceed *in forma pauperis*.

In Petitioner's Motion, Petitioner states that he intends to file a petition for writ of *habeas corpus* under 28 U.S.C. § 2254, but is concerned that restrictions imposed at the prison on account of the COVID-19 pandemic could impede his petition preparation and prevent him from filing it in a timely manner. (*Id.* at 1-2.) Petitioner states that he believes, but is not certain, the deadline to file his habeas petition may be as soon as December 26, 2020. (*Id.* at 2.) Petitioner asks the Court to take notice of his situation, to appoint counsel for him, and to toll the time for Petitioner to file his habeas petition. (*Id.* at 5.)

Petitioner does not properly initiate this action. Petitioner has not paid the filing fee, has not applied for *in forma pauperis* status, and has not submitted a petition for writ of *habeas corpus*.

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1 Furthermore, Petitioner's Motion does not provide sufficient information for the
2 Court to take any action with respect to Petitioner's anticipated habeas petition, including
3 appointment of counsel or equitable tolling of the statute of limitations.

4 It is therefore ordered that Petitioner's action is dismissed without prejudice.

5 The Clerk of Court is directed to send Petitioner, along with a copy of this order,
6 the forms for a state prisoner to prepare a petition for writ of *habeas corpus* pursuant to
7 28 U.S.C. § 2254 and an application to proceed *in forma pauperis*. If Petitioner wishes to
8 initiate a habeas action, Petitioner must complete and submit the habeas petition form,
9 and Petitioner must either pay the \$5.00 filing fee or complete and submit the application
10 to proceed *in forma pauperis*. Any question regarding equitable tolling of the statute of
11 limitations would be addressed in due course in the properly initiated habeas action.

12 It is further ordered that Petitioner is denied a certificate of appealability, as
13 reasonable jurists would not find the Court's dismissal of this action to be debatable or
14 wrong.

15 The Clerk of Court is directed to enter judgment accordingly.

16 DATED THIS 4th Day of December 2020.

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20 MIRANDA M. DU
21 CHIEF UNITED STATES DISTRICT JUDGE
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